

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

SAMUEL A. BUTTARI, SR.
and
JAMIE MCCANN,
Co-Administrators of the Estate of Ryan Dylan
Buttari, Deceased,

Plaintiffs,

v.

Civil Action No.: 3:21cv70

MICHAEL EVERETTE
and
M AND C TRANSFER, LLC,
and
88 FREIGHT, LLC,

Defendants.

NOTICE OF REMOVAL

Defendants Michael Everette and M and C Transfer, LLC, by counsel, pursuant to 28 U.S.C. sections 1441 and 1446, file this Notice of Removal to remove this action from the Circuit Court for the City of Petersburg to the United States District Court for the Eastern District of Virginia: Richmond Division. In support thereof, Defendants state as follows:

1. The plaintiffs filed suit against the defendants in the Circuit Court for the City of Petersburg, Virginia on January 14, 2021. A copy of the Complaint is attached hereto pursuant to 28 U.S.C. § 1446.

2. The Complaint was served on defendant Michael Everette on January 28, 2021.¹

¹ Plaintiffs obtained service on defendant Everette via the Department of Motor Vehicles. The Commissioner of the DMV was served on January 21, 2021; forwarded process to defendant Everette by certified mail on January 26, 2021; and has not yet filed the Certificate of Compliance. Defendant Everette received the certified mailing on January 28, 2021. *See, Elliott v. Am. States Ins. Co.*, 883 F.3d 384, 394 (4th Cir. 2018); *Brown v. Nikloads, LLC*, Civ. A. No. 2:20CV493, 2020 WL 7130786, at *4 (E.D. Va. 2020) (internal citations omitted).

3. The Complaint was served on defendant M and C Transfer on January 28, 2021.²

4. Upon information and belief, co-defendant 88 Freight, LLC was served on or after January 22, 2021.³

5. This Court has removal jurisdiction over this matter as there is complete diversity of citizenship between Plaintiffs (residents and citizens of Virginia), defendant Michael Everette (a resident and citizen of North Carolina), defendant M and C Transfer, LLC (a North Carolina LLC whose members all reside in and are citizens of North Carolina), and defendant 88 Freight, LLC (a Georgia LLC whose sole member resides in and is a citizen of Georgia) and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. This Notice is filed within 30 days after Defendants were served with the suit pursuant to 28 U.S.C. § 1446.

7. Defendants Michael Everette and M and C Transfer, LLC have given notice of the filing of this Notice of Removal to all counsel of record, and have filed a copy with the Clerk of the Circuit Court for the City of Petersburg.

8. All defendants consent to removal of this case.

9. Venue is proper pursuant to 28 U.S.C. § 1391(a).

² Plaintiffs obtained service on defendant M and C Transfer via the State Corporation Commission. The Clerk of the Commission was served on January 21, 2021; forwarded process to defendant M and C Transfer by certified mail on January 22, 2021; and filed the Certificate of Compliance at some unknown time thereafter. Defendant M and C Transfer received the certified mailing on January 28, 2021. *See, Elliott v. Am. States Ins. Co.*, 883 F.3d 384, 394 (4th Cir. 2018); *Brown v. Nikloads, LLC*, Civ. A. No. 2:20CV493, 2020 WL 7130786, at *4 (E.D. Va. 2020) (internal citations omitted)

³ Plaintiffs obtained service on defendant 88 Freight via the State Corporation Commission. The Clerk of the Commission was served on January 21, 2021; forwarded process to defendant 88 Freight by certified mail on January 22, 2021; and has not yet filed the Certificate of Compliance. These defendants do not know the precise date 88 Freight received process after it was mailed on January 22, 2021. *See, Elliott v. Am. States Ins. Co.*, 883 F.3d 384, 394 (4th Cir. 2018); *Brown v. Nikloads, LLC*, Civ. A. No. 2:20CV493, 2020 WL 7130786, at *4 (E.D. Va. 2020) (internal citations omitted).

WHEREFORE, defendants Michael Everette and M and C Transfer, LLC request that this Court remove this action from the Circuit Court for the City of Petersburg to the United States District Court for the Eastern District of Virginia: Richmond Division.

**MICHAEL EVERETTE and
M AND C TRANSFER, LLC**

By Counsel

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CERTIFICATE

I hereby certify that on the 10th day of February, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide notice to counsel of record and I hereby certify that I have mailed by United States Postal Service the document to the following:

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